



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

Certified Mail: Return Receipt Requested

Norphlet Chemical, Inc.
John L. Garrison, Registered Agent
600 MacMillian Road
Norphlet, Arkansas 71759

Re: Norphlet Chemical, Inc. Facility, 600 MacMillian Road, Norphlet, Arkansas 71759

Dear Mr. Garrison:

This letter informs you that the United States Environmental Protection Agency ("EPA" or "Agency") has perfected a lien upon property located at 600 MacMillian Road, Norphlet, Arkansas 71759, the exact legal description of which is contained the enclosure to this letter. This property is part of the Norphlet Chemical, Inc. Superfund Site (the "NCI Site"). EPA has determined that Norphlet Chemical, Inc. ("NCI") is the owner of this property (the "Property"). The lien which EPA has perfected against the Property arises under Section 107(l) of the Comprehensive Environmental Response, Compensation & Liability Act ("CERCLA"), commonly known as "Superfund," 42 U.S.C. § 9607(l). The lien is intended to secure payment to the United States of costs and damages for which NCI, as the owner of the Property, would be liable to the United States under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

Under CERCLA Sections 101(9) and 107(a), 42 U.S.C. §§ 9601(9), 9607(a), liable persons include persons who own any "facility," including a site or area where a hazardous substance has been deposited, stored, disposed, or placed, or otherwise come to be located. EPA has determined that a release or threat of release of hazardous substances pursuant to CERCLA Section 101(22) has occurred at or from the Property. As noted, the Property is part of the NCI Site, at which hazardous substances came to be located, and is subject to or affected by a removal or remedial action. As the owner of the facility, NCI is a person liable for all costs of removal or remedial action at the NCI Site. Costs and damages include the costs incurred by the United State in responding to a release or threat of release at the NCI Site

The lien arising in favor of the United States on the Property continues until the liability for the costs is satisfied or until the liability for the costs becomes unenforceable through operation of the statute of limitations in CERCLA section 113, 42 U.S.C. §9613.

On May 4, 2009, EPA notified NCI by certified mail of its potential liability under CERCLA; and on June 25, 2009, NCI responded in writing asserting that it could not pay for removal action due to a lack of funds and consequent inability to pay. EPA is reviewing the NCI contentions, however, an inability to pay will not affect the determination by EPA that NCI is a

potentially responsible party under CERCLA for the NCI Site. NCI may satisfy the lien placed upon the Property by paying all costs and damages for which NCI is liable.

EPA has assembled a Lien Filing Record consisting of documents relating to its decision to perfect the lien. This record is kept at the following address, and may be reviewed and copied at reasonable times by arrangement with:

James L. Turner
Senior Attorney
Office of Regional Counsel
U.S. EPA Region 6
1445 Ross Ave
Dallas, Texas 75202-2733
Tel: (214) 665-3159
Email: Turner.James@epa.gov

EPA has reviewed the information in the Lien Filing Record and believes that the Agency has a reasonable basis to believe that the statutory elements for perfecting a lien are satisfied. EPA has perfected its lien by filing a notice of lien with the Union County Circuit Clerk, Union County, El Dorado, Arkansas, which is the appropriate office within the state as designated by state law. EPA perfected its lien prior to notifying you of its intention, because of its concern that a transfer of the property by foreclosure or other means could be imminent and could occur at any time, thus extinguishing the ability of EPA to perfect its lien on the Property.

NCI may notify EPA within fourteen (14) calendar days from the date of mailing of this letter in writing if NCI believes that EPA's information or determination is in error. NCI may also request to appear before a neutral EPA official to present any information that NCI may have indicating that EPA did not have a reasonable basis to perfect a lien. NCI should describe in its letter or written request its reasons for believing that EPA did not have a reasonable basis to perfect its lien, because EPA may, as described below, agree with NCI's reasons and release its lien without further review or a meeting. Any written submissions or requests for a meeting should reference the Superfund Site, be addressed to the above referenced Regional Attorney, and may include documents or information which support NCI's contentions.

If EPA receives a written submission or a request for a meeting from NCI within fourteen (14) calendar days from the date of mailing of this letter, Agency staff will review the NCI submission or request for a meeting. If, after review and consultation, EPA agrees that the Agency did not have a reasonable basis upon which to perfect a lien, EPA will release its lien and will so notify NCI. If EPA disagrees, the written submission or request will be referred to a neutral EPA official selected for the purposes of reviewing the submission or for conducting the meeting, along with the Lien Filing Record.

If NCI has requested an opportunity to appear, a meeting will be scheduled. NCI may choose to attend this meeting via teleconference as well. The Agency will be represented by its enforcement staff, including a representative from the Office of Regional Counsel. NCI may be represented by counsel at this meeting.

The meeting will be an informal hearing in which NCI may provide the EPA with information as to why the Agency's assumptions require reconsideration. The meeting will not be conducted using rules of evidence or formal administrative or judicial procedures. The sole issue at the meeting would be whether EPA had a reasonable basis to perfect its lien, based upon CERCLA Section 107(l), 42 U.S.C. § 9607(l).

After reviewing NCI written submissions, or conducting a meeting, if one is requested, the neutral EPA official will issue a recommended decision, based on the Lien Filing Record. The recommended decision will state whether EPA had a reasonable basis to perfect the lien and will be forwarded to the Agency official delegated to execute liens for action. You will be notified of the Agency's action (whether the lien will stay in place or be released) and furnished a copy of the recommended decision.

Neither NCI, nor EPA, waives or is prohibited from asserting any claims or defenses in any subsequent legal or administrative proceeding by the submission of information, a request for and participation at a meeting, or recommended decision by the neutral EPA official that EPA has a reasonable basis to file a lien.

If you have any questions pertaining to this letter, please contact (directly or through your counsel) EPA's counsel James L. Turner at (214) 665-3159.

Sincerely yours,

Samuel Coleman, P.E.
Director, Superfund Division

Enclosure

cc: Don B. Dodson, Counsel
Jim Crotty, Managing Director and Mayor
David W. Henry, Secretary

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File: c:\Norphlet Chemical\Public\Corres\Lien Post Perfection Notice 100209

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ADDRESSES

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Mr. David W. Henry, Secretary
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Mr. Jim Crotty
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